

PLETZ AND REED, P.C.

ATTORNEYS AT LAW
P.O. Box 1048
325 Jefferson Street
Jefferson City, Missouri 65102

JOHN S. (JACK) PLETZ
JOHN C. REED
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Telephone:
573-635-8500
FAX NO. 573-634-3079

July 9, 2013

FILED

JUL 11 2013

ADMINISTRATIVE HEARING
COMMISSION

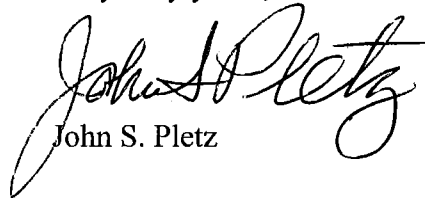
Administrative Hearing Commission
P.O. Box 1557
Jefferson City, MO 65102

Re: *Reeds Wrecked Cars, LLC v. Director of Revenue*

Dear Sir or Madam:

Enclosed please find for filing in the above-referenced case Petitioner's First Amended Complaint.

Very truly yours,


John S. Pletz

JSP:bsc

Enclosure

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED

JUL 11 2013

ADMINISTRATIVE HEARING
COMMISSION

REEDS WRECKED CARS, LLC,)
20 Twiggy Lane,)
Eldon, MO 65026-4906,)

Petitioner,)

vs.)

No. 13-1106 RS

DIRECTOR OF REVENUE,)
P.O. Box 475,)
Jefferson City, MO 65105,)

Respondent.)

FIRST AMENDED COMPLAINT

Reeds Wrecked Cars, LLC (hereinafter "Petitioner"), by its attorneys, hereby appeals Assessments of Unpaid Sales/Use Taxes of the Director of Revenue (hereinafter "Respondent") dated June 14, 2013, copies of which are attached hereto as Exhibits A, B and C.

As the basis of its Complaint, Petitioner states as follows:

1. Petitioner is a Missouri limited liability company, duly authorized by law and active. Petitioner's address is 20 Twiggy Lane, Eldon, MO 65026-4906.

2. Respondent is the duly appointed and qualified Missouri Director of Revenue, whose address is P.O. Box 475, Jefferson City, MO 65105. Respondent is being sued in his official capacity and not in his personal capacity.

3. The Administrative Hearing Commission has jurisdiction in this matter pursuant to Section 144.261, RSMo and Section 621.050, RSMo.

4. In the Assessment of Unpaid Sales/Use Tax Number 201315105975001 (Exhibit A), the Respondent determined that Petitioner owed Missouri sales tax for the period from April 1

through June 30, 2010 in the total amount of \$10,584.96, plus interest of \$961.93, for a total amount due for the period of \$11,546.89. Giving credit for \$37.07 previously paid, the Respondent asserted that the balance due was \$11,509.82.

5. In the Assessment of Unpaid Sales/Use Tax Number 201315105975002 (Exhibit B), the Respondent determined that Petitioner owed Missouri sales tax for the period from October 1 through December 31, 2011 in the total amount of \$13,748.57, plus interest of \$631.72, for a total amount due of \$14,380.29.

6. In the Assessment of Unpaid Sales/Use Tax Number 201315105975003 (Exhibit C), the Respondent determined that Petitioner owed Missouri sales tax for the period from July 1 through July 31, 2012 in the total amount of \$3,121.27, plus interest of \$91.75, for a total amount due of \$3,213.02.

7. During the tax periods in issue, Petitioner operated a recycling business recovering, processing and selling materials from used motor vehicles.

8. In each of the tax periods in issue, Petitioner purchased equipment which was required solely for the recovery of materials from the used motor vehicles. Those purchases were therefore exempt from sales/use taxes under the legal provisions applicable to material recovery processing plants (Section 144.030.2(4), RSMo and 12 CSR 10-111.060).

9. The Respondent evidently contends that the equipment was taxable because it has also been used not only to handle the direct recycling work (e.g., moving the vehicles into the crushing machine) but also, to a significantly lesser extent, in preparing the vehicles for that direct recycling work. Such a secondary use was undertaken by Petitioner primarily for safety reasons. That subsequent usage also does not negate the fact that the only reason why the equipment was

required for Petitioner's business was for its recycling business (for example, for the movement of vehicles to the crusher and of recycled materials to their point of exit from the facility).

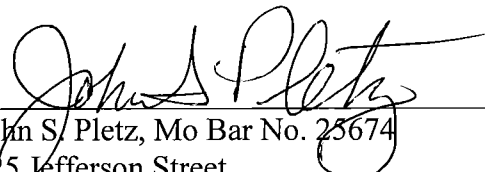
10. The equipment purchased by the Petitioner was exempt from Missouri sales/use taxes. The Respondent's Assessments to Petitioner are erroneous, and Petitioner is not liable for their payment.

WHEREFORE, Petitioner prays that the Commission set this matter for hearing and enter its order finding:

- (1) That the Assessments sent to the Petitioner are erroneous;
- (2) That the Petitioner is not liable for the payment of the assessed Missouri sales/use taxes; and
- (3) That Petitioner be granted such other and further relief as may be proper in the circumstances; including relief under Sections 536.087 and 143.903, RSMo.

PLETZ AND REED, P.C.

By:



John S. Pletz, Mo Bar No. 25674
325 Jefferson Street
Post Office Box 1048
Jefferson City, MO 65102
Telephone: (573) 635-8500
Facsimile: (573) 634-3079
Attorneys for Petitioner.

CERTIFICATE OF SERVICE

I certify that on the 9th day of July, 2013, a true copy of the above and foregoing Entry of Appearance was sent by United States Mail, postage prepaid, addressed to the Director of Revenue, P.O. Box 475, Jefferson City, MO 65105; and to the Department of Revenue, Taxation Division, P.O. Box 3390, Jefferson City, MO 65105-3390.



John S. Pletz

MISSOURI DEPARTMENT OF REVENUE
TAXATION DIVISION
P.O. BOX 3390
JEFFERSON CITY, MO 65105-3390



7187 8047 6200 5059 7288

Assessment Date JUNE 14, 2013
MO Tax ID Number 19294611
FORM C401 (Revised 08/10)

ASSESSMENT OF UNPAID SALES/USE TAX

REEDS WRECKED CARS LLC
20 TWIGGY LN
ELDON MO 65026-4906

02107

Assessment Number: **201315105975001**

Delinquent Period: **APR 01-JUN 30, 2010**

Date Due: **AUGUST 13, 2013**

Tax Type: **SALES**

PHONE (573) 751-7200
FAX (573) 522-1160
EMAIL - salestaxnotice@dor.mo.gov

This assessment is the Final Decision of the Director of Revenue. If you are adversely affected by this decision, you may appeal to the Administrative Hearing Commission. To appeal, you must file a petition with the Commission within sixty (60) days after the date this decision was mailed or the date it was delivered, whichever date was earlier. If any such petition is sent by registered or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any other method other than registered or certified mail, it will be deemed filed on the date it is received by the Commission.

Send appeals to the Administrative Hearing Commission, Box 1557, Jefferson City, MO 65102-1557.

Any amount of this assessment not appealed will become due and payable 60 days from the assessment date appearing above. Failure to appeal within 60 days or pay within 60 days of the above assessment date will result in liens being filed for the amount due and you will be subject to lien/lien release charges for each lien filed/released as prescribed in Section 144.380 RSMO.

If you pay by check, you authorize the Department of Revenue to process the check electronically. Any check returned unpaid may be presented again electronically.

The Department must have written authorization, such as a Missouri Power of Attorney, Form 2827 (available at www.dor.mo.gov), to discuss specific information about your tax account with anyone besides the owners, partners, officers or an authorized agent listed on your registration, return or power of attorney.

Total Tax Due	10,584.96
Additions to Tax	.00
Penalty	.00
Bad Check Penalty	.00
Quarter Monthly Penalty	.00

Interest	961.93
Lien Filing Fees	.00
Total Amount Due	\$ 11,546.89
Total Amount Paid	\$ 37.07
Balance Due	\$ 11,509.82

For a Statement of Taxpayer's Remedies - see enclosed

CUT HERE AND RETURN THIS PORTION OF THIS NOTICE WITH YOUR PAYMENT



MISSOURI DEPARTMENT OF REVENUE
TAXATION DIVISION
P.O. BOX 3390
JEFFERSON CITY, MO 65105-3390

ASSESSMENT OF UNPAID SALES/USE TAX

FORM
C401

(Rev 8-10)

MO Tax ID Number:	19294611
Tax Period:	APR 01-JUN 30, 2010
Notice Number:	201315105975001
Amount Due:	\$ 11,509.82

PAYE

REEDS WRECKED CARS LLC
20 TWIGGY LN
ELDON MO 65026-4906

(016514)

Taxation Division (573)751-7200	
DOR USE ONLY	
DOR USE ONLY	
Good Money	Final Pay

156 1 2013151059750012 19294611 00001150982 7

EXHIBIT A



MISSOURI DEPARTMENT OF REVENUE
TAXATION DIVISION
P.O. BOX 3390
JEFFERSON CITY, MO 65105-3390

FORM
C401

(Rev 8-04)

Assessment Date

JUNE 14, 2013

MO Tax ID Number

19294611

ASSESSMENT OF UNPAID SALES/USE TAX

REEDS WRECKED CARS LLC
20 TWIGGY LN
ELDON MO 65026-4906

02108

Assessment Number: **201315105975001**

Delinquent Period: **APR 01-JUN 30, 2010**

Date Due: **AUGUST 13, 2013**

Tax Type: **SALES**

PHONE (573) 751-7200
FAX (573) 522-1160
EMAIL - salestaxnotice@dor.mo.gov

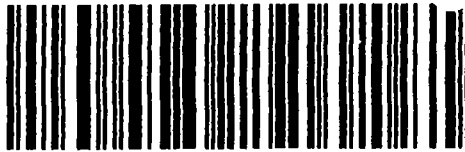
Explanation of Liability:

This assessment is in accordance with the Missouri Sales Tax Law and Compensating Use Tax Law. It reflects all applicable state, county, city, district, and constitutional taxes.

LOCATION	TAX TYPE	TAX	ADDITIONS/PENALTY	INTEREST	TOTAL
00000 141 0009 ONE TIME ONLY VERSAILLES	STATE	432.14	.00	39.40	471.54
	CONSER	18.01	.00	1.64	19.65
	EDUC	144.05	.00	13.14	157.19
	PARKS	14.41	.00	1.31	15.72
	D AMB	72.03	.00	6.56	78.59
	COUNTY	72.03	.00	6.56	78.59
	CO LAW	72.02	.00	6.56	78.58

LOCATION	TAX TYPE	TAX	ADDITIONS/PENALTY	INTEREST	TOTAL
37000 051 0008 ONE TIME ONLY JEFFERSON CITY	STATE	3,775.98	.00	344.37	4,120.35
	CONSER	157.34	.00	14.34	171.68
	EDUC	1,258.67	.00	114.79	1,373.46
	PARKS	125.87	.00	11.48	137.35
	CITY	1,258.67	.00	114.79	1,373.46
	CI MIS	629.33	.00	57.40	686.73
	CI WTR	629.33	.00	57.40	686.73
	COUNTY	629.33	.00	57.40	686.73
	CO CAP	629.33	.00	57.40	686.73
	CO LAW	629.35	.00	57.39	686.74

MISSOURI DEPARTMENT OF REVENUE
TAXATION DIVISION
P.O. BOX 3390
JEFFERSON CITY, MO 65105-3390



7187 8047 6200 5059 7318

Assessment Date JUNE 14, 2013
MO Tax ID Number 19294611
FORM C401 (Revised 08/10)

ASSESSMENT OF UNPAID SALES/USE TAX

REEDS WRECKED CARS LLC
20 TWIGGY LN
ELDON MO 65026-4906

02118

Assessment Number: 201315105975002
Delinquent Period: OCT 01-DEC 31, 2011
Date Due: AUGUST 13, 2013
Tax Type: SALES
PHONE (573) 751-7200 FAX (573) 522-1160 EMAIL - salestaxnotice@dor.mo.gov

This assessment is the Final Decision of the Director of Revenue. If you are adversely affected by this decision, you may appeal to the Administrative Hearing Commission. To appeal, you must file a petition with the Commission within sixty (60) days after the date this decision was mailed or the date it was delivered, whichever date was earlier. If any such petition is sent by registered or certified mail, it will be deemed filed on the date it is mailed; if it is sent by any other method other than registered or certified mail, it will be deemed filed on the date it is received by the Commission.

Send appeals to the Administrative Hearing Commission, Box 1557, Jefferson City, MO 65102-1557.

Any amount of this assessment not appealed will become due and payable 60 days from the assessment date appearing above. Failure to appeal within 60 days or pay within 60 days of the above assessment date will result in liens being filed for the amount due and you will be subject to lien/lien release charges for each lien filed/released as prescribed in Section 144.380 RSMO.

If you pay by check, you authorize the Department of Revenue to process the check electronically. Any check returned unpaid may be presented again electronically.

The Department must have written authorization, such as a Missouri Power of Attorney, Form 2827 (available at www.dor.mo.gov), to discuss specific information about your tax account with anyone besides the owners, partners, officers or an authorized agent listed on your registration, return or power of attorney.

Total Tax Due	13,748.57
Additions to Tax	.00
Penalty	.00
Bad Check Penalty	.00
Quarter Monthly Penalty	.00

Interest	631.72
Lien Filing Fees	.00
Total Amount Due	\$ 14,380.29
Total Amount Paid	\$.00
Balance Due	\$ 14,380.29

For a Statement of Taxpayer's Remedies - see enclosed

CUT HERE AND RETURN THIS PORTION OF THIS NOTICE WITH YOUR PAYMENT



MISSOURI DEPARTMENT OF REVENUE
TAXATION DIVISION
P.O. BOX 3390
JEFFERSON CITY, MO 65105-3390

ASSESSMENT OF UNPAID SALES/USE TAX

FORM
C401
(Rev 8-10)

MO Tax ID Number:	19294611
Tax Period:	OCT 01-DEC 31, 2011
Notice Number:	201315105975002
Amount Due:	\$ 14,380.29

PAYE

REEDS WRECKED CARS LLC
20 TWIGGY LN
ELDON MO 65026-4906

Taxation Division (573)751-7200	
DOR USE ONLY	
DOR USE ONLY	
Good Money	Final Pay

(016514)

156 1 2013151059750020 19294611 00001438029 0

EXHIBIT B



MISSOURI DEPARTMENT OF REVENUE
TAXATION DIVISION
P.O. BOX 3390
JEFFERSON CITY, MO 65105-3390

FORM
C401

(Rev 8-04)

Assessment Date

JUNE 14, 2013

MO Tax ID Number

19294611

ASSESSMENT OF UNPAID SALES/USE TAX

REEDS WRECKED CARS LLC
20 TWIGGY LN
ELDON MO 65026-4906

02119

Assessment Number: 201315105975002

Delinquent Period: OCT 01-DEC 31, 2011

Date Due: AUGUST 13, 2013

Tax Type: SALES

PHONE (573) 751-7200
FAX (573) 522-1180
EMAIL - salestaxnotice@dor.mo.gov

Explanation of Liability:

This assessment is in accordance with the Missouri Sales Tax Law and Compensating Use Tax Law. It reflects all applicable state, county, city, district, and constitutional taxes.

LOCATION	TAX TYPE	TAX	ADDITIONS/PENALTY	INTEREST	TOTAL
37000 051 0008 ONE TIME ONLY JEFFERSON CITY	STATE	5,339.25	.00	245.35	5,584.60
	CONSER	222.47	.00	10.22	232.69
	EDUC	1,779.75	.00	81.79	1,861.54
	PARKS	177.98	.00	8.17	186.15
	CITY	1,779.75	.00	81.79	1,861.54
	CI MIS	889.88	.00	40.88	930.76
	CI WTR	889.88	.00	40.88	930.76
	COUNTY	889.88	.00	40.88	930.76
	CO CAP	889.88	.00	40.88	930.76
	CO LAW	889.85	.00	40.88	930.73

LOCATION	TAX TYPE	TAX	ADDITIONS/PENALTY	INTEREST	TOTAL



MISSOURI DEPARTMENT OF REVENUE
TAXATION DIVISION
P.O. BOX 3390
JEFFERSON CITY, MO 65105-3390

FORM
C401

(Rev 8-04)

Assessment Date

JUNE 14, 2013

MO Tax ID Number

19294611

ASSESSMENT OF UNPAID SALES/USE TAX

REEDS WRECKED CARS LLC
20 TWIGGY LN
ELDON MO 65026-4906

02119

Assessment Number: 201315105975002

Delinquent Period: OCT 01-DEC 31, 2011

Date Due: AUGUST 13, 2013

Tax Type: SALES

PHONE (573) 751-7200
FAX (573) 522-1160
EMAIL - salestaxnotice@dor.mo.gov

Explanation of Liability:

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LOCATION	TAX TYPE	TAX	ADDITIONS/PENALTY	INTEREST	TOTAL
37000 051 0008 ONE TIME ONLY JEFFERSON CITY	STATE	5,339.25	.00	245.35	5,584.60
	CONSER	222.47	.00	10.22	232.69
	EDUC	1,779.75	.00	81.79	1,861.54
	PARKS	177.98	.00	8.17	186.15
	CITY	1,779.75	.00	81.79	1,861.54
	CI MIS	889.88	.00	40.88	930.76
	CI WTR	889.88	.00	40.88	930.76
	COUNTY	889.88	.00	40.88	930.76
	CO CAP	889.88	.00	40.88	930.76
	CO LAW	889.85	.00	40.88	930.73

LOCATION	TAX TYPE	TAX	ADDITIONS/PENALTY	INTEREST	TOTAL
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ASSESSMENT OF UNPAID SALES/USE TAX

REEDS WRECKED CARS LLC
20 TWIGGY LN
ELDON MO 65026-4906

02130

Explanation of Liability:

This assessment is in accordance with the Missouri Sales Tax Law and Compensating Use Tax Law. It reflects all applicable state, county, city, district, and constitutional taxes.

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